S T A T E O F N E W Y O R K

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I N A S S E M B L Y

January 7, 2010

Introduced by M. of A. CAHILL, HOYT, McENENY, MOLINARO, REILLY, PEOPLES-STOKES, SCHROEDER, SKARTADOS, STIRPE, THIELE, CONTE, CALHOUN -- Multi-Sponsored by -- M. of A. AMEDORE, BRENNAN, KOON, MARKEY, QUINN, TEDISCO -- read once and referred to the Committee on Education

AN ACT in relation to establishing the commission on education in the twenty-first century; and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Commission established. (a) There is hereby created in the executive department a commission to be known as the "commission on education in the twenty-first century", hereafter referred to as the "commission", which shall be charged with examining the system of school districts and the delivery of education related services in New York state and recommending changes to that system in light of factors submitted pursuant to section four of this act and any additional factors established by the commission.

(b) The commission shall consist of eighteen statewide members, and regional members appointed pursuant to section six of this act. The eighteen statewide members shall be appointed as follows: (i) two members shall be appointed by the temporary president of the senate; (ii) two members shall be appointed by the speaker of the assembly; (iii) one member shall be appointed by the minority leader of the senate; (iv) one member shall be appointed by the minority leader of the assembly; (v) two members shall be appointed by the governor; and (vi) ten members shall be appointed by the board of regents. The board of regents shall designate the chair from among the statewide members of the commission.

(c) The members of the commission shall receive no compensation for their services as members, but shall be allowed their actual and necessary expenses incurred in the performance of their duties. Members of the commission shall be considered public officers for purposes of section 17 of the public officers law.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(d) The commission shall begin to act forty-five days after this act shall have become a law. A quorum shall consist of a majority of the members of the commission entitled to vote on the matter under consideration. Approval of any matter shall require the affirmative vote of a majority of the members voting thereon.

(e) The statewide members of the commission shall adopt by-laws for the management and regulation of its affairs.

S 2. Appointments to commission. The legislative leaders and the governor shall submit their appointments to the board of regents, and the board of regents shall make appointments, no later than forty-five days after this act becomes a law. If any such appointment is not made by such date, the person or board responsible for making the appointment pursuant to subdivision (b) of section one of this act may make the appointment after that date, but the vacant appointment shall not count for calculation of a quorum until it is filled. Vacancies in the commission shall be filled in the same manner as the member whose vacancy is being filled was appointed.

S 3. Commission staff and agency liaison. (a) The commissioner of education shall designate such employees of the state education department as are reasonably necessary to provide support services to the commission. The commission, acting by the chair of the commission, may employ additional staff and consultants, who shall be paid from amounts available to the commission for that purpose.

(b) The commissioner of education shall appoint one or more representatives of the department of education to serve as liaison between such department and the commission. All state agencies, public authorities and public benefit corporations shall provide such assistance as may be reasonably requested by the chair of the commission.

S 4. Factors and information for consideration. (a) The commissioner of education shall submit to the commission, no later than ninety days after this act becomes a law, a list of factors to be considered in its deliberations, which shall include but not be limited to: (i) geography, including physical proximity and the size of the current school districts and boards of cooperative educational services in each region of the state; (ii) demographics, including student enrollment trends and the composition and nature of communities in the current school districts and boards of cooperative educational services in each region of the state; (iii) economics, including existing collaborations to be preserved or enhanced and opportunities to deliver commodities and services through boards of cooperative educational services or other entities; (iv) transportation and the potential for regional transportation services; (v) special education and the potential for regional special education services; (vi) population density; and (vii) other unique circumstances including the need to preserve existing or developing relationships, meet the needs of students, maximize educational opportunities for students, assure local control, maintain the character of community schools and ensure equitable access to rigorous programs for all students.

(b) The commissioner of education may submit additional relevant factors to be considered in the deliberations of the commission. The commission may also adopt additional factors to be considered in its deliberations.

S 5. Deliberations of commission. The deliberations, meetings and other proceedings of the commission and any committee thereof shall be governed by article 7 of the public officers law. Any one or more members of a committee may participate in a meeting of such committee by

means of a conference telephone, conference video or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. At any meetings of the commission conducted by means of a conference telephone, conference video or similar communications equipment, other than executive sessions, the public shall be given an opportunity to listen. If a meeting other than an executive session is to be conducted by means of a conference telephone, conference video or similar communications equipment, the public notice for the meeting shall inform the public that such equipment will be used, and identify the means by which the public may listen to such meeting.

S 6. Regional input. (a) There shall be eight regional members of the commission for each region established pursuant to this section. For each region, two regional members shall be appointed by the governor, two regional members shall be appointed by the temporary president of the senate, two regional members shall be appointed by the speaker of the assembly, and two regional members shall be appointed by the board of regents. Regional members shall be considered to be members of the commission for purposes of this act, provided that:

(i) Regional members shall vote and be counted for quorum purposes only when the commission is acting on recommendations relating solely to the regional members' respective region; and

(ii) Regional members shall not be considered to be members of the commission for purposes of participation in commission meetings, except where items relating specifically to that member's region are on the agenda of a commission meeting.

(b) For purposes of this act, there shall be six regions:

(i) Long Island, consisting of the Eastern Suffolk, Nassau and Western Suffolk boards of cooperative educational services;

(ii) New York City;

(iii) Hudson Valley, consisting of the Dutchess, Orange-Ulster, Putnam-Northern Westchester, Rockland, Southern Westchester, Sullivan and Ulster boards of cooperative educational services;

(iv) Eastern, consisting of the Capital Region, Clinton-Essex-Warren-Washington, Delaware-Chenango-Madison-Otsego, Franklin-Essex-Hamilton, Hamilton-Fulton-Montgomery, Otsego-Delaware-Schoharie-Greene, Questar III, St. Lawrence-Lewis and Washington-Saratoga-Warren-Hamilton-Essex boards of cooperative educational services;

(v) Central, consisting of the Broome-Tioga, Cayuga-Onondaga, Jefferson-Lewis-Hamilton-Herkimer-Oneida, Herkimer-Hamilton-Fulton-Oswego, Madison-Oneida, Oneida-Herkimer-Madison, Onondaga-Cortland-Madison, Oswego, Schuyler, Chemung, Tioga and Tompkins-Seneca-Tioga boards of cooperative educational services;

(vi) Western, consisting of the Cattaraugus-Allegany-Erie-Wyoming, Erie 1, Erie 2-Chautauqua-Cattaraugus, Genesee Valley, Monroe 1, Monroe 2-Orleans, Ontario-Seneca-Yates-Cayuga-Wayne, Orleans-Niagara and Greater Southern Tier boards of cooperative educational services.

(c) The commission shall establish a regional advisory committee for each region. The maximum number of members of each regional advisory committee shall be determined by the commission. Members of each regional advisory committee shall be appointed in equal numbers by the governor, the temporary president of the senate, the speaker of the assembly and the board of regents. The governor, the temporary president of the senate, the speaker of the assembly, and the board of regents shall submit to the commission their appointments to the regional advi-

sory committees no later than ninety days after this act shall have become a law. If any such appointment is not made by such date, the person or board responsible for making such appointment may make the appointment after that date, but the vacant appointment shall not count for calculation of a quorum until such position is filled. Vacancies in regional advisory committees shall be filled in the same manner as the member whose vacancy is being filled was appointed. The regional advisory committees shall begin to act ninety days after this act shall have become a law.

(d) Each regional advisory committee upon consideration of demographic, geographic, educational and fiscal indicators within each board of cooperative educational services region, shall develop recommendations for reconfiguring such region's school districts and administrative functions to align educational services with regional and local needs. In carrying out its functions, a regional advisory committee shall foster discussions among, and conduct formal public hearings with requisite public notice to solicit input from, local stakeholders interests, including but not limited to, school district administrators, district superintendents and superintendents of schools, teachers, school board members, parents, students, non-pedagogical school support personnel, representatives from post-secondary institutions and other pertinent groups and individuals. In developing its recommendations, each regional advisory committee shall as far as practicable estimate the efficiencies that may be derived from such school district or administrative reconfiguration. On November 15, 2011, each regional advisory committee shall transmit to the commission a report containing its recommendations, which shall include specific recommendations for school district and administrative reconfigurations. Such recommendations shall include but not be limited to: delivery of commodities and services; pupil transportation; specialized professional development; maintenance; insurance procurement; payroll administration; human resources and employee benefit coordination; cooperative purchasing coordination; centralization of business operations; printing services; state aid planning; textbook purchasing and substitute teacher coordination; safety and risk management; the units of school administration to be included in the reconfigured school district; the units of school administration that will be transferred to the board of cooperative educational services; size, composition and apportionment of the governing body; the composition, powers and duties of any local school committees to be created; the disposition of real and personal school property; the disposition of existing school indebtedness and lease-purchase; the assignment of school personnel contracts, school collective bargaining agreements and other school contractual obligations; the disposition of existing school funds and existing financial obligations, including undesignated fund balances, trust funds, reserve funds and other funds appropriated for school purposes; a transition plan that addresses the development of a budget for the first school year and interim personnel policies; an estimate of the cost savings to be achieved through reconfiguration and how costs will be reduced; recommended dates by which such actions should occur; necessary investments, if any, that should be made in each case to carry out the regional advisory committee's recommendations; and the regional advisory committee's justification for its recommendations, including the use of any factors developed pursuant to section four of this act.

(e) The failure of any regional advisory committee to perform the duties imposed by this section shall not affect the obligation of the commission to perform the duties imposed by section seven of this act.

S 7. Commission recommendations. (a) The commission, upon consideration of demographic, geographic, educational and fiscal indicators within each board of cooperative educational services region, shall develop recommendations for reconfiguring school districts and administrative functions to align educational services with regional and local needs. In carrying out its functions, the commission shall collaborate with the regional advisory committees insofar as practicable to foster discussions among, and conduct formal public hearings with requisite public notice to solicit input and recommendations from statewide and regional stakeholder interests including but not limited to school district administrators, district superintendents and superintendents of schools, teachers, school board members, parents, students, non-pedagogical school support personnel, representatives from post-secondary institutions and other pertinent groups and individuals. The commission shall formally solicit recommendations from school district administrators, district superintendents and superintendents of schools, teachers, school board members, parents, students, non-pedagogical school support personnel, representatives from post-secondary institutions and other interested parties in each region of the state, and it shall take into account such recommendations and the recommendations of the regional advisory committees during its deliberations. In developing its recommendations, the commission shall as far as practicable estimate the efficiencies that may be derived from such school district and administrative reconfiguration, and shall consider the recommendations of the regional advisory committees.

(b) The commission shall make recommendations relating to school district and administrative reconfiguration, within each region. The regional commission members shall vote as members of the commission only when the commission is acting on recommendations relating solely to the regional commission members' region.

(c) Such recommendations shall include but not be limited to: delivery of commodities and services; pupil transportation; specialized professional development; maintenance; insurance procurement; payroll administration; human resources and employee benefit coordination; cooperative purchasing coordination; centralization of business operations; printing services; state aid planning; textbook purchasing and substitute teacher coordination; safety and risk management; the units of school administration to be included in the reconfigured school district; the units of school administration that will be transferred to the board of cooperative educational services; size, composition and apportionment of the governing body; the composition, powers and duties of any local school committees to be created; the disposition of real and personal school property; the disposition of existing school indebtedness and lease-purchase; the assignment of school personnel contracts, school collective bargaining agreements and other school contractual obligations; the disposition of existing school funds and existing financial obligations, including undesignated fund balances, trust funds, reserve funds and other funds appropriated for school purposes; a transition plan that addresses the development of a budget for the first school year and interim personnel policies; an estimate of the cost savings to be achieved through reconfiguration and how costs will be reduced; recommended dates by which such actions should occur; necessary investments, if any, that should be made in each case to carry out the commission's

recommendations; the commission's response to the recommendations of the regional advisory committees; and the commissioner's justification for its recommendations, including the use of the factors pursuant to section four of this act.

(d) On or before December 1, 2011, the commission shall transmit to the governor and the legislature a report containing its recommendations, which shall include specific recommendations for school districts to be reconfigured and specific recommendations for administrative services to be transferred to boards of cooperative educational services. Upon the transmission of the report to the governor and the legislature the commission shall be dissolved.

S 8. Implementation of recommendations. (a) Notwithstanding any contrary provision of law, rule or regulation related to the reconfiguring of school districts and administrative services the commissioner of education shall take all actions necessary to implement, in a reasonable, cost-efficient manner, the recommendations of the commission pursuant to subdivisions (b) and (c) of section seven of this act. Such school districts and boards of cooperative educational services shall submit to the commissioner of education, at a time and in a form as determined by the commissioner of education, an acceptable plan of reconfiguration in accordance with applicable regulations.

(b) The provisions of subdivision (a) of this section shall not apply: (i) unless the governor has transmitted the commission's report under section seven of this act with his or her written approval of the recommendations of the commission pursuant to subdivisions (b) and (c) of section seven of this act to the commissioner of education and transmitted a message to the legislature stating his or her approval of the report on or before December 5, 2011; and (ii) if a majority of the members of each house of the legislature vote to adopt a concurrent resolution rejecting the recommendations of the commission pursuant to subdivisions (b) and (c) of section seven of this act in their entirety by December 31, 2011, after receiving a message from the governor under this subdivision. In no event shall the commissioner of education begin to implement the recommendations of the commission pursuant to subdivisions (b) and (c) of section seven of this act prior to December 31, 2011.

S 9. The commission shall be authorized and entitled to receive any grants offered pursuant to section 54 of the state finance law.

S 10. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 11. This act shall take effect immediately and shall expire and be deemed repealed June 30, 2013.